

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.09.2016

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
and
THE HONOURABLE MR.JUSTICE N.ATHINATHAN

W.P.No.17498 of 2016

1. Union of India,
rep. By the General Manager,
Southern Railway,
Park Town, Trichy.
2. The Senior Divisional Personnel Officer,
Tiruchirappalli Division,
Southern Railway, Tiruchirappalli. ... Petitioners

versus

1. S.Muthuramalingam,
Traffic Controller,
O/o.Chief Controller,
Tiruchirappalli Division,
Southern Railway, Trichy.
2. The Registrar,
Central Administrative Tribunal,
Chennai. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Certiorari, to call for the records, on the file of the 2nd respondent in O.A.No.310/1678/2014, dated 27.11.2015 and quash the same.

For Petitioners : Mr.V.Bhavani Subbaroyan

ORDER

(Order of the Court was made by S.MANIKUMAR, J.)

Challenging the order, dated 27.11.2015, made in O.A.No.310/1678/2014, on the file of the Central Administrative Tribunal, Chennai, this Writ Petition is filed.

2. Short facts leading to the writ petition are as follows:

The 1st respondent, while working as Head Train Clerk, in Pay Band-2, with Grade Pay of Rs.4,200/-, was selected for the post of Traffic Controller, in the same band and Grade Pay. Before appointment to the said post, he was subjected to the prescribed training, which includes class room training and job training, at Marshalling yards and Control Office, respectively. According to 1st respondent, selection to the said post, is by promotion and as such, his pay should have been fixed at Rs.15,470/-, from the date of his appointment to the said post, i.e., from 14.9.2012, as provided for, under Rule 1313(FR 22)(I) (a)(1) of the Indian Railway Establishment Code. However, his pay was fixed at Rs.15,020/-, without any change. As the orders of the Tribunal, granting relief to the similarly placed persons, have been upheld by this Court and confirmed by the Hon'ble Supreme Court, he has made a representation to the Senior Divisional Personnel Officer, Tiruchirappalli Division, Southern Railway, Tiruchirappalli, 2nd petitioner herein, to fix his pay at Rs.15,470/-. Since there was no response, he was constrained to file O.A.No.1207 of 2014, wherein, a direction was given by the Tribunal to direct the 2nd petitioner to consider and pass orders, on the above representation. Pursuant thereto, the 2nd petitioner, vide order, dated 06.10.2014, rejected the claim of the 1st respondent, for higher pay fixation. Aggrieved by the same, the 1st respondent has filed O.A.No.1678 of 2014, to quash the said order, and for a consequential direction to fix his pay at Rs.15,470/-, with effect from 14.9.2012, in terms of Rule 1313(FR 22)(1)(a)(1) of Indian Railway Establishment Code, read with Rule 13 of the Railway Services(Revised Pay) Rules, 2008.

3. Before the Central Administrative Tribunal, Chennai, the petitioners have contented that benefit of pay fixation, in identical scale, is restricted to only certain categories alone, as indicated by the Railway Board, in its letter, dated 24.5.1999. The Railway Board, in its letter, dated 12.9.2013, has again enlisted certain categories, for which, benefit of pay fixation may be allowed, in case of promotion, in identical Pay Band, carrying same Grade Pay and in the said letter, the category of Section Controller has not been included for such pay fixation benefits. Therefore, it was contended that the request of the 1st respondent for fixation of pay at Rs.15,470/- from 14.09.2012, on his promotion from the post of Head Train Clerk to the post of Traffic Controller is not permissible. According to them, the order of the Tribunal, cited by the 1st respondent, can be applied in personam and not applicable to the present case. It is also their contention that there is no violation of the Rule 1313 (FR 22)(1)(a)(1) of Indian Railway

Establishment Code as well as Rule 123 of the Indian Railway Establishment Manual and for the abovesaid reasons, prayed for dismissal of the application.

4. Considering the facts and circumstances of the case and materials on record, the Central Administrative Tribunal, Madras Bench, in O.A.No.310/1678/2014, passed an order, dated 27.11.2015, as follows:

"4. Admittedly, the issue raised in the OA had already considered in detail by the Tribunal in OA 717 of 2006 filed by one R. Pandian who on his promotion to the post of Section Controller from the post of Station Master denied higher fixation of pay on the ground that since the feeder category and the promoted category i.e., the posts of Station Master and Section Controller are carrying the same scale of pay and the Section Controller is classified as not having higher responsibilities and according to the respondents the fixation benefit as provided under Rule 1313 (FR 22) (I) (a) (1) is not applicable to him. On consideration of the rival contentions, the Tribunal rejected the contention of the respondents that the post of Section Controller does not involve duties and responsibilities of greater importance and allowed the OA in favour of the applicant for grant of higher fixation of pay. The said order was upheld by the Hon'ble High Court of Madras in W.P.No.30151 of 2007 vide its order dated 25.2.2010 and the same was confirmed by the Hon'ble Apex Court vide its order dated 30.8.2010.

5. By following the order in OA 717 of 2006, this Tribunal has dealt with similar issue in favour of the applicants in OA.442 of 2011 and 1270 of 2014. Since the present applicant is also similarly placed, we are constrained to pass similar order.

6. In the result, the impugned order dated 6.10.2014 is set aside and the respondents are directed to pass appropriate orders refixing the pay of the applicant at Rs.15,470/- with effect from the date of his promotion to the post of Traffic Controller i.e from 14.9.2012 and the consequential benefits are also to be paid on such refixation./ The said direction shall be complied with within a period of two months from the date of receipt of a copy of this order.

7. The OA is allowed in the above terms without any order as to costs."

5. Challenging the said order, the petitioners have filed this present writ petition, for the relief, stated supra.

6. It is not in dispute that in a similar circumstance (R.Pandian v. Union of India), the order passed by the Central Administrative Tribunal in O.A.No.717 of 2006 has been confirmed by this Court in W.P.No.30151 of 2007, by an order dated 25.02.2010. Pursuant thereto, the Railways have preferred a Special Leave Petition and the Hon'ble Apex Court was pleased to pass a reasoned order in SLP (Civil) No.12847 of 2010 on 30.08.2010, dismissing the plea of the Railways, hereunder:

"..... In our view, the Tribunal had rightly interpreted Rule 1313 of the Railway Establishment Code and directed that the pay of the respondent who had been promoted from the post of Station Master Gr II to the post of Section Controller be re-fixed from the date he assumed higher responsibilities, i.e., 23.11.2003 and the High Court did not commit any error by refusing to interfere with the order of the Tribunal. The Special Leave Petition is accordingly dismissed."

7. As the issue in question had already reached finality, we are of the considered view that the action of the writ petitioners, in filing this writ petition and trying to re-agitate the same issue, again and again, is not correct and we find no error in the order, dated 27.11.2015, passed by the Tribunal, directing the Railways to re-fix the pay of the 1st respondent, with effect from 13.07.2000 and grant all consequential benefits, on such refixation.

8. In view of the above, the Writ Petition is dismissed and the petitioners are directed to comply with the order of the Tribunal, dated 27.11.2015, within a period of twelve weeks, from the date of receipt of a copy of this order, by extending all the monetary benefits, payable to the 1st respondent. No costs. Consequently, connected Miscellaneous Petition is also closed.

WEB COPY

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

skm

To

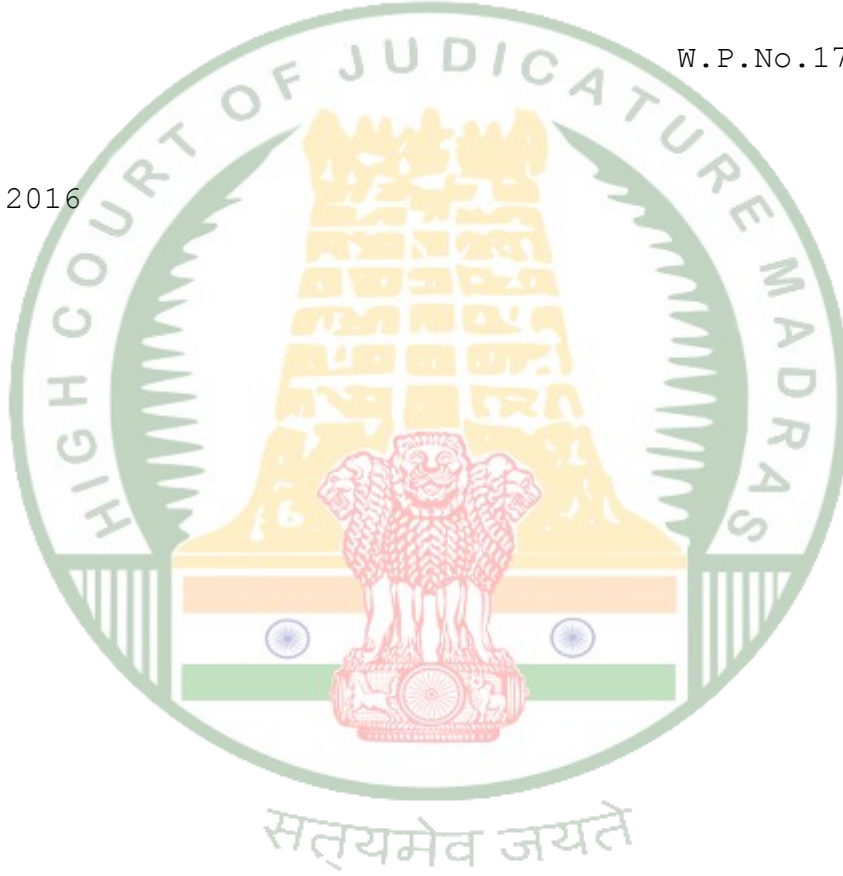
The Registrar,
Central Administrative Tribunal,
Chennai.

1 cc to M/s.R.Pandian, Advocate, sr.51345

1 cc to V.Bhavani Subbarayan, Advocate, sr.51163

W.P.No.17498 of 2016

nr co
kra 04.10.2016



WEB COPY